

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CHARLES GILLENWATER,
Plaintiff,
vs.
ROSANNA PETERSON,
Defendants.

NO. CV-13-112-JPH

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING ACTION WITHOUT
PREJUDICE

On March 18, 2013, Plaintiff, a prisoner at the Federal Medical Center in Butner, North Carolina, submitted a civil rights complaint, in this District, ECF No. 1. He did not, however, pay the full filing fee to commence the action or apply to proceed *in forma pauperis*. By letter dated March 9, 2013, the District Court Executive provided Plaintiff with an application to proceed *in forma pauperis*, which he did not complete. Instead, Plaintiff notified the Court on April 8, 2013, that he wished to “drop the case.” On April 10, 2013, Magistrate Judge Hutton construed his document as a Motion to Voluntarily Dismiss, ECF No. 3, and recommended the motion be granted.

Plaintiff timely filed an Objection, ECF No. 5. Apparently, he is objecting to the fact that Magistrate Judge Hutton did not screen his complaint under 28 U.S.C. § 1915A, and affirm that his claims were meritorious. Because Plaintiff had not complied with the filing fee requirements to commence this action when he sought to voluntarily dismiss, there was no reason to evaluate the merits of his complaint.

For the reasons set forth by Magistrate Judge Hutton, **IT IS ORDERED** the
ORDER ADOPTING REPORT AND RECOMMENDATION
AND DISMISSING ACTION -- 1

1 Report and Recommendation, ECF No. 4, is **ADOPTED in its entirety**, the Motion,
2 ECF No. 3, is **GRANTED**, and this action is **DISMISSED without prejudice** to
3 Plaintiff filing a new action in which he either pays the full filing fee of \$400.00
4 (\$350.00 filing fee, plus \$50.00 administrative fee) , or seeks leave to proceed *in forma*
5 *pauperis*. A properly filed complaint by a prisoner would be subject to the screening
6 provisions of 28 U.S.C. § 1915A.

7 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
8 Order, enter judgment of dismissal without prejudice, forward a copy to Plaintiff and
9 **close the file.**

10 **DATED** this 23rd day of May 2013.

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12 *s/Robert H. Whaley*
13 **ROBERT H. WHALEY**
14 **SENIOR UNITED STATES DISTRICT JUDGE**
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